UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,509	02/12/2004	Simon C. Chu	RPS920030181US1	5246

47052 7590 03/06/2007	**EXAMINER**
SAWYER LAW GROUP LLP	DARNO, PATRICK A
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	ART UNIT	PAPER NUMBER
	2163	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/06/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

PTOL-90A (Rev. 10/06)

		Application No.	Applicant(s)
Office Action Summary		10/777,509	CHU ET AL.
		Examiner	Art Unit	
		Patrick A. Darno	2163	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>20 November 2006</u>.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>24-45</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>24-45</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>12 February 2004</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

    1.☐ Certified copies of the priority documents have been received.

    2.☐ Certified copies of the priority documents have been received in Application No. _____.

    3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-SB/08)
    Paper No(s)/Mail Date <u>12112006 and 02122004</u>.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   Claims 1-23 are canceled. Claims 24-45 are new. Therefore, claims 24-45 are pending

in this office action.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making
> and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it
> pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode
> contemplated by the inventor of carrying out his invention.

2.   Claims 24-45 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with

the written description requirement. The claim(s) contains subject matter which was not

described in the specification in such a way as to reasonably convey to one skilled in the relevant

art that the inventor(s), at the time the application was filed, had possession of the claimed

invention.

With respect to claim 24, the claim recites "...moving the data associated with the first

application...". After reviewing the Applicants disclosure, the Examiner was unable to find

support in the specification for this claim limitation. The Examiner was able to find support for

"...copying the data associated with the first application...". However, the Examiner maintains

that there is a significant difference between moving data and copying data. The claims stand

rejected under 35 U.S.C. 112, first paragraph, because of the addition of new matter since there

appears to be support for "...moving the data associated with the first application..." in the

Applicant's specification to reasonably convey to one skilled in the art that the inventors at the

time the application was filed, had possession of the claimed invention.

In order to overcome this rejection, the Applicant must show where sufficient support for the claimed invention is located in the Applicant's originally filed specification. Appropriate correction is required.

Claims 30, 35, and 41 are rejected because they contain the same deficiencies of claim 24.

Claims 25-29, 31-34, 36-39, and 42-45 are rejected because they either inherit or contain the deficiencies of claims 24, 30, 35, or 41.

The Examiner notes that all other claim limitations should be carefully analyzed to ensure that support for the elements exist in the Applicant's specification. Furthermore, any additional amendments submitted in response to this office action should be accompanied by a notation or footnote which specifically points out where proper support for such amendments exists in the Applicant's specification.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3.   Claims 24-26, 28, 30-32, 35-37, 39, and 41-43 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Number 6,711,660 issued to Matthew W. Milne et al. (hereinafter "Milne").

Claim 24:

Milne discloses a method for protecting data in a data processing system, the method comprising:

partitioning a hard disk of the data processing system into one or more hidden partitions and one or more non-hidden partitions *(Milne: column 1, line 52 – column 2, line 13 and Fig. 2)*;

storing a first application and data associated with the first application in the one or more non-hidden partitions *(Milne: column 3, lines 66 - column 4, line 3 and column 4, lines 56-61 and column 6, lines 43-51; Note that there are images, files, and/or applications stored in both the non-hidden partition (user partition) and the hidden partition.)*;

replacing the first application with a second application *(Milne: column 2, line 64 – column 3, line 7 and column 3, lines 12-25 and column 6, lines 43-51)*; and

moving the data associated with the first application from the one or more non-hidden partitions to the one or more hidden partitions to prevent the second application from accessing the data associated with the first application *(Milne: column 3, lines 11-15 and lines 50-56 and column 4, line 54 – column 5, line 14 and column 6, lines 43-49; Note specifically column 6, lines 48-50 of the Milne reference which recites 'user data is stored to create a restorable updated system image and the updated system is restored'. This occurs when the system restore is initiated. This passage (Milne: column 6, lines 43-49) as a whole shows moving an image stored in a hidden partition to an image stored in a non-hidden partition. However, note specifically in Milne: column 6, lines 48-50 that the current user data image is first used to create a new restorable backup image. Restorable back-up images are stored in the hidden partition (Milne: column 4, line 67 - column 5, line 1). Therefore, before the restorable user image is moved to the user partition, an image of the user partition is made and moved to the hidden partition before the full restore takes place.)*.

Claim 25:

Milne discloses all the elements of claim 24, as noted above, and Milne further discloses

a method comprising:

storing data associated with the second application in the one or more hidden partitions

(Milne: column 3, lines 11-15 and column 4, line 64 - column 5, line 1 and column 6, lines 43-48); and

moving the data associated with the second application from the one or more hidden

partitions to the one or more non-hidden partitions responsive to the first application being

replaced by the second application *(Milne: column 3, lines 11-15 and lines 50-56 and column 4, line 54 –*

column 5, line 14 and column 6, lines 43-49).

Claim 26:

Milne discloses all the elements of claim 24, wherein replacing the first application

comprises:

removing the first application from the one or more non-hidden partitions *(Milne: column 6,*

lines 48-50);

packaging the first application into an image file *(Milne: column 6, lines 48-50)*;

forwarding the image file to a storage location *(Milne: column 6, lines 48-50)*; and

loading the second application into the one or more non-hidden partitions *(Milne: column 6,*

lines 50-54).

Claim 28:

Milne discloses al the elements of claim 24, as noted above, and Milne further discloses

wherein storing the first application and the data associated with the first application comprises:

storing the first application in one of the one or more non-hidden partitions *(Milne: column 4, lines 56-61 and column 6, lines 43-51)*; and

storing the data associated with the first application in another of the one or more non-hidden partitions *(Milne: column 4, lines 56-61 and column 6, lines 43-51 and column 3, line 66 – column 4, line 3)*.

Claim 30:

Milne disclose a hard disk comprising:

a first non-hidden partition storing a first application *(Milne: column 4, lines 56-61 and Fig. 2, 52, 54)*;

a second non-hidden partition storing data associated with the first application *(Milne: column 4, lines 56-61 and column 6, lines 43-51 and column 3, line 66 – column 4, line 3 and Fig. 2, 52, 54)*;

a hidden partition *(Milne: column 3, lines 11-15 and column 4, line 64 - column 5, line 1 and column 6, lines 43-48)*;

means for replacing the first application in the first non-hidden partition with a second application *(Milne: column 2, line 64 – column 3, line 7 and column 3, lines 12-25 and column 6, lines 43-51)*; and

means for moving the data associated with the first application from the second non-hidden partition to the hidden partition to prevent the second application from accessing the data associated with the first application *(Milne: column 3, lines 11-15 and lines 50-56 and column 4, line 54 – column 5, line 14 and column 6, lines 43-49; See rejection of claim 1 for comments on column 6, lines 43-49 of the Milne reference.)*.

Claim 31:

Claim 31 is rejected under the same reasons set forth in the rejection of claim 25.

Claim 32:

Claim 32 is rejected under the same reasons set forth in the rejection of claim 26.

Claim 35:

Claim 35 is rejected under the same reasons set forth in the rejection of claim 24.

Claim 36:

Claim 36 is rejected under the same reasons set forth in the rejection of claim 25.

Claim 37:

Claim 37 is rejected under the same reasons set forth in the rejection of claim 26.

Claim 39:

Claim 39 is rejected under the same reasons set forth in the rejection of claim 28.

Claim 41:

Claim 41 is rejected under the same reasons set forth in the rejection of claim 30.

Claim 42:

Claim 42 is rejected under the same reasons set forth in the rejection of claim 25.

Claim 43:

Claim 43 is rejected under the same reasons set forth in the rejection of claim 26.

4.   Claims 27, 33, 38, and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Milne and further in view of U.S. Patent Application Publication Number 2004/0230817 issued

to Kenneth Ma (hereinafter "Ma").

Claim 27:

Milne discloses all the element of claim 26, as noted above, but Milne does not explicitly

disclose wherein the storage location is on a network.

However, Ma discloses wherein the storage location is on a network *(Ma: paragraph [0053],*

lines 1-7). It would have been obvious to one of ordinary skill in the art at the time the invention

was made to modify the teachings of Milne with the teachings of Ma as noted above. The skilled

artisan would have been motivated to improve the teachings of Milne per the above in order to

backup a complete storage device image at a remote location *(Ma: paragraph [0053], lines 1-7).*

Claim 33:

Claim 33 is rejected under the same reasons set forth in the rejection of claim 27.

Claim 38:

Claim 38 is rejected under the same reasons set forth in the rejection of claim 27.

Claim 44:

Claim 44 is rejected under the same reasons set forth in the rejection of claim 27.

5.   Claims 29, 34, 40, and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Milne and further in view of U.S. Patent Application Publication 2002/0174097 issued to Gert

Rusch et al. (hereinafter "Rusch").

Claim 29:

Milne discloses all the elements of claim 24, as noted above, but Milne does not

explicitly disclose wherein the first application is owned by a first business client and the second

application is owned by a second business client different from the first business client.

However, Rusch discloses wherein the first application is owned by a first business client and the second application is owned by a second business client different from the first business client *(Rusch: paragraph [0074], lines 1-8)*.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Milne with the teachings of Rusch noted above. The skilled artisan would have been motivated to improve the teachings of Milne per the above in order to organize the applications of multiple businesses in one system *(Rusch: paragraph [0007], lines 1-6 and paragraph [0018], lines 1-7 and paragraph [0074], lines 1-8)*.

Claim 34:

Claim 34 is rejected under the same reasons set forth in the rejection of claim 29.

Claim 40:

Claim 40 is rejected under the same reasons set forth in the rejection of claim 29.

Claim 45:

Claim 45 is rejected under the same reasons set forth in the rejection of claim 29.

Response to Arguments

Applicant Argues:

Although Milne discusses having both a hidden partition and a user partition, loading a host-selected operating system and configuration data specific to the host-selected operating system in the user partition, creating a restorable user system image of the host-selected operating system and the configuration data, and loading the restorable user system image in the hidden partition, it does not disclose, teach, or suggest "moving the data associated with the first application from the one or more non-hidden partitions to the one or more hidden partitions to prevent the second application from accessing the data associated with the first application," as recited in claim 24.

Specifically, in Milne, the configuration data specific to the host-selected operating system is not moved from the user partition to the hidden partition, but rather a backup copy of the configuration data is created and loaded in the hidden partition. Thus, in Milne, both the user partition and the hidden partition have a copy of the configuration data.

Examiner Responds:

Examiner is not persuaded. Note specifically column 6, lines 48-50 of the Milne

reference which recites 'user data is stored to create a restorable updated system image and the

updated system is restored'. This occurs when the system restore is initiated. This passage

(Milne: column 6, lines 43-49) shows moving an image stored in a hidden partition to an image

stored in a non-hidden partition. However, note specifically in Milne: column 6, lines 48-50 that

the current user data image is first used to create a new restorable backup image. Restorable

back-up images are stored in the hidden portion (Milne: column 4, line 67 - column 5, line 1).

Therefore, before the restorable user image is moved to the user partition, an image of the user

partition is made and moved to the hidden partition before the full restore takes place.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this

Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this
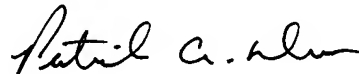
final action.

Contact Information

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Patrick A. Darno whose telephone number is (571) 272-0788.

The examiner can normally be reached on Monday - Friday, 9:00 am - 5:30 pm.
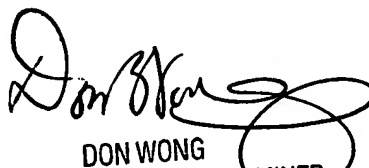
If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Don Wong can be reached on (571) 272-1834. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

<div style="text-align:right">

Patrick A. Darno
Examiner
Art Unit 2163

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PAD

DON WONG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100